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10  
11 BEFORE THE  
DIVISION OF MEDICAL QUALITY  
12 BOARD OF MEDICAL QUALITY ASSURANCE  
DEPARTMENT OF CONSUMER AFFAIRS  
13 STATE OF CALIFORNIA

13	In the Matter of the Accusation	)	No. D-3689
14	Against:	)	
15	RICHARD STEPHEN INFANTE, M.D.	)	STIPULATION FOR DISCIPLINE;
16	3005 W. 48th Street	)	DECISION AND ORDER
16	Los Angeles, California 90043	)	
17	Physician and Surgeon	)	
17	Certificate No. G 046107	)	
18		)	
18	Respondent.	)	
19		)	

20 IT IS STIPULATED by and between complainant Kenneth J.  
21 Wagstaff, and respondent Richard Stephen Infante, M.D., as  
22 follows:

23 1. Complainant is the Executive Director of the Board  
24 of Medical Quality Assurance (hereinafter referred to as the  
25 board) of the Department of Consumer Affairs of the State of  
26 California, and in his official capacity as executive director is  
27 empowered to bring an accusation for discipline against a

1 licensee of the board, and to enter into this stipulation for  
2 discipline.

3           2. Complainant is represented in this matter by John  
4 K. Van De Kamp, Attorney General of the State of California, by  
5 and through Robert A. Heron, Deputy Attorney General.

6           3. Respondent has been issued by the board on  
7 September 21, 1981, physician and surgeon certificate number G  
8 046107 for the practice of medicine. At all times pertinent  
9 herein the license was in full force and effect.

10           4. Respondent is represented in this matter by  
11 Theodore A. Cohen, Attorney at Law.

12           5. On October 7, 1987, complainant in his official  
13 capacity and not otherwise filed accusation number D-3689 against  
14 respondent, accusing him of unprofessional conduct within the  
15 scope of Business and Professions Code sections 2234, 2242(a),  
16 2236(a), 2237(a) and 2238. The accusation is currently pending  
17 before the board and its Division of Medical Quality (hereinafter  
18 the division).

19           6. The accusation was properly served upon respondent  
20 on May 3, 1988. On May 12, 1988, respondent appeared and filed  
21 his notice of defense to the accusation.

22           7. Complainant and respondent are desirous of  
23 resolving this matter without a hearing or further administrative  
24 proceedings.

25           8. Respondent understands the nature of the  
26 accusation filed against him.

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2.

1           9.    Respondent has the assistance of competent counsel  
2 in this matter.

3           10. Respondent understands that he could have a  
4 hearing before the division to determine the sufficiency and the  
5 truth of the accusation, and the propriety of any penalty to be  
6 imposed by the division, and that by entering into this  
7 stipulation he gives up his right to a hearing before the  
8 division and to present legal and factual issues to the division  
9 for its consideration.

10          11. Respondent understands that he could use  
11 compulsory process to procure at a hearing witnesses and  
12 documentary evidence on his behalf and in mitigation, and that by  
13 entering into this stipulation he gives up his right to  
14 compulsory process.

15          12. Respondent understands that at a hearing he could  
16 introduce relevant testimony and exhibits on his behalf and in  
17 mitigation, including exculpatory evidence, could rebut the  
18 evidence against him, and that by entering into this stipulation  
19 he gives up his right to call witnesses or introduce evidence on  
20 his behalf or in mitigation, and to rebut the evidence against  
21 him.

22          13. Respondent understands that no hearing will be  
23 held and no witnesses will be called and examined before the  
24 division, no evidence or documents will be introduced, the  
25 division in making its decision or order on the accusation will  
26 only have before it the accusation and this stipulation, and that

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1 by entering into this stipulation he gives up his right to  
2 confront and cross-examine any and all witnesses against him.

3 14. Respondent understands that by entering into this  
4 stipulation he gives up his right to seek reconsideration or to  
5 appeal to the courts of the State of California any adverse  
6 decision or order of the division on the accusation, and that by  
7 entering into this stipulation the division may enter a final  
8 nonreviewable decision or order on the accusation.

9 15. Respondent has not been forced, coerced,  
10 threatened, or induced in any way into entering into this  
11 stipulation, freely and voluntarily waives his rights, and  
12 freely and voluntarily enters into this stipulation with full  
13 knowledge of its consequences and effect.

14 16. Respondent admits that on August 22, 1983, while  
15 licensed as a physician and surgeon, he sold and furnished to  
16 "Mike," - undercover Officer Michael Kipp of the Ventura County  
17 Sheriff's Department - for fifteen dollars (\$15.00) ten (10)  
18 tylenol codeine #4 tablets, a dangerous and narcotic drug, and a  
19 Schedule III controlled substance, without a good faith prior  
20 examination of Officer Kipp and without a medical indication for  
21 selling and furnishing the drug to Officer Kipp.

22 17. As a separate cause for discipline, respondent  
23 admits that on August 24, 1983, while licensed as a physician and  
24 surgeon, he sold and furnished to Officer Kipp, for six hundred  
25 dollars (\$600.00) twenty (20) dilaudid tablets, a dangerous drug  
26 and opium or opiate derivative, and a Schedule II controlled  
27 substance, without a good faith prior examination of Officer

1 Kipp and without a medical indication for selling and furnishing  
2 the drug to Officer Kipp.

3 18. As a separate cause for discipline, respondent  
4 admits that on August 24, 1983, while licensed as a physician and  
5 surgeon, he prescribed and furnished to "Linda Fournier," -  
6 undercover Officer Beverly Larson of the Ventura County Sheriff's  
7 Department - forty (40) tylenol codeine #4 tablets, a dangerous  
8 and narcotic drug, and a Schedule III controlled substance,  
9 without a good faith prior examination of Officer Larson and  
10 without a medical indication for prescribing and furnishing the  
11 drugs to Officer Larson. Respondent also admits that as part of  
12 the same transaction, he sold and furnished to Officers Kipp and  
13 Larson, for thirty dollars (\$30.00) twenty (20) of the same  
14 tylenol codeine #4 tablets, also without a good faith prior  
15 examination of Officers Kipp and Larson and without a medical  
16 indication for prescribing, selling and furnishing the drug to  
17 Officers Kipp and Larson.

18 19. As a separate cause for discipline, respondent  
19 admits that on August 24, 1983, while licensed as a physician and  
20 surgeon, he prescribed, sold and furnished to Officer Larson,  
21 fourteen (14) placidyl 200 mg. tablets, a dangerous drug and  
22 hypnotic depressant, and a Schedule IV controlled substance,  
23 without a good faith prior examination of Officer Larson and  
24 without a medical indication for prescribing, selling and  
25 furnishing the drug to Officer Larson.

26 20. As a separate cause for discipline, respondent  
27 admits that on April 2, 1984, while licensed as a physician and

1 surgeon, in the Superior Court of California, County of Ventura,  
2 in the criminal action entitled People of the State of California  
3 v. Richard Stephen Infante, docket number CR-18601, he was  
4 convicted of three counts of the crime of violation of Health and  
5 Safety Code section 11352, in that he did sell controlled  
6 substances.

7           21. As a separate cause for discipline, respondent  
8 admits that on April 2, 1984, while licensed as a physician and  
9 surgeon, in the Superior Court of California, County of Ventura,  
10 in the above-entitled criminal action, he was convicted of three  
11 counts of the crime of violation of Health and Safety Code  
12 section 11154, in that not in the regular practice of his  
13 profession he did prescribe and furnish controlled substances to  
14 persons not under his treatment for a pathology and condition.

15           22. Respondent admits that his conviction of the  
16 crimes of violation of Health and Safety Code sections 11352 and  
17 11154, are violations and convictions of statutes regulating a  
18 dangerous drug or controlled substance.

19           23. Respondent admits that his acts on August 22, and  
20 August 24, 1983, and his convictions on April 2, 1984, are  
21 substantially related to his qualifications, functions and duties  
22 as a physician and surgeon and to a substantial degree evidence  
23 his present and potential unfitness to perform the functions  
24 authorized by his license in a manner consistent with the public  
25 health, safety and welfare.

26           24. Respondent admits that no further proof is  
27 required that his license is subject to discipline by the board

1 for unprofessional conduct for violating Business and  
2 Professions Code sections 2234, 2242(a), 2236(a), 2237(a) and  
3 2238.

4 WHEREFORE IT IS FURTHER STIPULATED AND AGREED by and  
5 between the parties that the division may issue the following  
6 disciplinary decision or order as its decision and order in the  
7 matter of accusation number D-3689:

8 1. Respondent violated Business and Professions Code  
9 sections 2234, 2242(a), 2236(a), 2237(a) and 2238, separately and  
10 severally, and cause for revocation of respondent's certificate  
11 as a physician and surgeon exists under each of these sections.

12 2. Physician and surgeon's certificate number G  
13 046107, issued to respondent Richard Stephen Infante, M.D., is  
14 hereby revoked pursuant to this stipulation and respondent's  
15 admission of violating Business and Professions Code sections  
16 2234, 2242(a), 2236(a), 2237(a) and 2238, separately and for all  
17 of them. Provided, however, that execution of this order of  
18 revocation is stayed and respondent is placed on probation for  
19 five years beginning the effective date of the division's  
20 decision and order, upon each and all of the following terms and  
21 conditions:

22 A. As part of probation respondent is suspended from  
23 the practice of medicine for ninety (90) days beginning the  
24 effective date of this decision and order.

25 B. Respondent shall not prescribe, administer,  
26 dispense, order or possess any controlled substance as  
27 defined in the California Uniform Controlled Substances Act.

1       However, this order forbidding respondent from possession of  
2       a controlled substance does not apply to a medication  
3       lawfully prescribed to respondent for a bona fide illness or  
4       condition by another practitioner.

5               C.   Respondent is prohibited from practicing medicine  
6       until respondent provides documentary proof to the division  
7       that respondent's Drug Enforcement Administration (DEA)  
8       permit has been surrendered to the DEA for cancellation,  
9       together with any triplicate prescription forms and federal  
10      order forms. Thereafter, respondent shall not reapply for a  
11      new DEA permit without the prior written consent of the  
12      division or its designee.

13             D.   Respondent shall abstain completely from the  
14      personal use or possession of any controlled substance as  
15      defined in the California Uniform Controlled Substances  
16      Act, and any dangerous drug as defined by section 4211 of  
17      the Business and Professions Code, or any drug requiring a  
18      prescription. However, this order forbidding respondent  
19      from personal use or possession of a controlled substance,  
20      dangerous drug, or prescription drug does not apply to a  
21      medication lawfully prescribed to respondent for a bona  
22      fide illness or condition by another practitioner.

23             E.   Respondent shall immediately submit to biological  
24      fluid testing, at respondent's cost, upon the request of the  
25      division or its designee.

26             F.   Within thirty (30) days of the effective date of  
27      this decision, respondent shall submit to the division for



1 its prior approval a drug rehabilitation program in which  
2 respondent shall participate at least weekly for at least 50  
3 weeks of the calendar year for the duration of probation.  
4 In the quarterly reports to the division, respondent shall  
5 provide documentary evidence of continuing participation in  
6 this program.

7 G. Within ninety (90) days of the effective date of  
8 this decision, and on an annual basis thereafter,  
9 respondent shall submit to the division for its prior  
10 approval an educational program or course related to  
11 general medicine, which shall not be less than 40 hours per  
12 year, for each year of probation. This program shall be in  
13 addition to the Continuing Medical Education requirements  
14 for re-licensure. Following the completion of each course,  
15 the division or its designee may administer an examination  
16 to test respondent's knowledge of the course. Respondent  
17 shall provide proof of attendance for sixty-five (65) hours  
18 of continuing medical education of which forty (40) hours  
19 were in satisfaction of this condition and were approved in  
20 advance by the division.

21 H. Respondent shall take and complete a course in  
22 Medical Ethics. Within sixty (60) days of the effective  
23 date of this decision, respondent shall select and submit a  
24 course to the division for its prior approval.

25 I. Within sixty (60) days of the effective date of  
26 this decision, respondent shall take and pass an oral  
27 clinical examination, in a subject to be designated, to be

1 administered by the division or its designee. If respondent  
2 fails this examination, respondent must take and pass a re-  
3 examination consisting of a written as well as an oral  
4 clinical examination. The waiting period between repeat  
5 examinations shall be at three month intervals until success  
6 is achieved. The division shall pay the cost of the first  
7 examination and respondent shall pay the cost of any  
8 subsequent re-examination.

9 Respondent shall not practice medicine until respondent  
10 has passed the required examination and has been so notified  
11 by the division in writing.

12 J. Within thirty (30) days of the effective date of  
13 this decision, respondent shall submit to the division for  
14 its prior approval a plan of practice in which respondent's  
15 practice shall be monitored by another physician in  
16 respondent's field of practice, who shall provide periodic  
17 reports to the division.

18 If the monitor quits, or is no longer available,  
19 respondent shall not practice until a new monitor has been  
20 substituted, through nomination by respondent and approval  
21 by the division.

22 K. During probation, respondent is prohibited from  
23 engaging in solo practice; respondent's practice shall be  
24 monitored by another physician in respondent's field of  
25 practice, who shall provide periodic reports to the  
26 division.

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1           L.    Respondent shall obey all federal, state and local  
2 laws, and all rules governing the practice of medicine in  
3 California.

4           M.    Respondent shall submit quarterly declarations  
5 under penalty of perjury on forms provided by the division,  
6 stating whether there has been compliance with all the  
7 conditions of probation.

8           N.    Respondent shall comply with the division's  
9 probation surveillance program, including the division's  
10 requests for biological fluid testing.

11          O.    Respondent shall appear in person for interviews  
12 with the division's medical consultant upon request at  
13 various intervals and with reasonable notice.


14          P.    The period of probation shall not run during the  
15 time respondent is residing or practicing outside the  
16 jurisdiction of California. If, during probation,  
17 respondent moves out of the jurisdiction of California to  
18 reside or practice elsewhere, respondent is required to  
19 immediately notify the division in writing of the date of  
20 departure, and the date of return, if any.

21          Q.    Upon successful completion of probation,  
22 respondent's certificate will be fully restored.

23          R.    If respondent violates probation in any respect,  
24 the division, after giving respondent notice and the  
25 opportunity to be heard, may revoke probation and carry out  
26 the disciplinary order that is stayed. If an accusation or  
27 petition to revoke probation is filed against respondent

1 during probation, the division shall have continuing  
2 jurisdiction until the matter is final, and the period of  
3 probation in this matter shall be extended until the  
4 subsequent matter is final.

5  
6 Dated: January 19, 1989 KENNETH J. WAGSTAFF, Executive Director  
7 Board of Medical Quality Assurance  
8 Complainant

9 By:   
10 ROBERT A. HERON  
11 Deputy Attorney General  
12 Attorney for Complainant

13 I have read this stipulation for discipline of my  
14 license as a physician and surgeon in the State of California and  
15 I understand its contents, terms and legal effects. I have  
16 discussed it with my attorney Theodore A. Cohen. I did the acts  
17 alleged in the accusation and admitted in this stipulation. I  
18 freely and voluntarily execute this stipulation with full  
19 knowledge that as a result my license as a physician and surgeon  
20 will be lawfully revoked by the Division of Medical Quality for  
21 unprofessional conduct substantially related to my  
22 qualifications, functions and duties as a physician and surgeon,  
23 and for violating provisions of the Medical Practice Act, and  
24 that revocation will be stayed upon my successful completion of  
25 the foregoing stipulated terms and conditions of probation. I  
26 also understand that should I violate a term or condition of  
27 probation in any respect, the division may dissolve the stay and

1 revoke probation, and carry out the disciplinary decision and  
2 order and revoke my license, and that I will not then be  
3 authorized or permitted to exercise any of the privileges of a  
4 physician and surgeon within the State of California.

5  
6 Dated: Jan 25 1989

R. Infante, M.D.  
7 RICHARD STEPHEN INFANTE, M.D.  
8 Respondent

9 I have read and discussed this stipulation with my  
10 client, Richard Stephen Infante, M.D. I am satisfied that he  
11 committed the acts of unprofessional conduct. I join in his  
12 waiver of his rights. There is no legal or factual reason why  
13 the Division of Medical Quality should not impose the stipulated  
14 discipline. I am satisfied that he understands the stipulation  
15 and agrees to the discipline to be imposed by the board.

16  
17 Dated: JAN. 25 1989

Theodore A. Cohen  
18 THEODORE A. COHEN  
19 Attorney at Law

20 Attorney for Respondent  
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DECISION AND ORDER

Pursuant to the foregoing stipulation between complainant Kenneth J. Wagstaff and respondent Richard Stephen Infant, M.D., which is accepted by the Division of Medical Quality of the Board of Medical Quality Assurance, the division makes the following findings of fact and determination of issues:

1. Complainant filed the accusation in his official capacity as Executive Director.

2. Respondent was issued a physician and surgeon's certificate by the board on September 21, 1981. At all times the license was in full force and effect.

3. On August 22, 1983, respondent unlawfully sold and furnished to a person not under his treatment for a pathology and condition, codeine, a dangerous drug and a controlled substance, without a good faith prior examination of the person, and without a medical indication for selling and furnishing the drug to the person.

4. On August 24, 1983, respondent unlawfully sold and furnished to a person not under his treatment for a pathology and condition, dilaudid, a dangerous drug and a controlled substance, without a good faith prior examination of the person, and without a medical indication for selling and furnishing the drug to the person.

5. On August 24, 1983, respondent unlawfully prescribed, sold and furnished to a person not under his treatment for a pathology and condition, codeine, a dangerous drug and a controlled substance, without a good faith prior

1 examination of the person, and without a medical indication for  
2 prescribing, selling and furnishing the drug to the person.

3           6.    On August 24, 1983, respondent unlawfully  
4 prescribed, sold and furnished to a person not under his  
5 treatment for a pathology and condition, placidyl, a dangerous  
6 drug and a controlled substance, without a good faith prior  
7 examination of the person, and without a medical indication for  
8 prescribing, selling and furnishing the drug to the person.

9           7.     On April 2, 1984, respondent was convicted of  
10 three counts of the crime of violation of Health and Safety Code  
11 section 11352, and three counts of the crime of violation of  
12 Health and Safety Code section 11154.

8. Conviction of the crime of violation of Health and Safety Code section 11352 and the crime of violation of Health and Safety Code section 11154 evidences a present and potential unfitness of respondent to practice medicine consistent with the health, safety and welfare of the public because the crimes involve the unlawful furnishing of dangerous drugs and controlled substances to persons not under his medical treatment. To a substantial degree, conviction of these crimes evidence the present and potential unfitness of respondent to perform the functions authorized by a physician and surgeon's certificate in a manner consistent with the public health, safety and welfare.

24                   9.     Health and Safety Code section 11352 and Health  
25 and Safety Code section 11154 are statutes regulating dangerous  
26 drugs and controlled substances.

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10. On April 2, 1984, respondent was convicted of violating statutes regulating dangerous drugs and controlled substances.

11. On August 22, 1983, respondent violated Health and Safety Code section 11352 and Health and Safety Code section 11154.

12. On three separate instances on August 24, 1983, respondent violated Health and Safety Code section 11352 and Health and Safety Code section 11154.

13. By reason of the jurisdiction and facts admitted in the stipulation and by reason of the above findings of fact and determination of issues, respondent violated Business and Professions Code sections 2234, 2242(a), 2236(a), 2237(a) and 2238, and cause for revocation of respondent's physician and surgeon certificate exists under these sections separately and for all of them.

WHEREFORE, THE FOLLOWING ORDER is hereby made:

Physician and surgeon certificate number G 046107, issued to respondent Richard Stephen Infante, M.D., is hereby revoked; provided, however, that execution of this order of revocation is stayed and respondent is placed on probation for five years upon each and all of the foregoing stipulated terms

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1 and conditions of probation. This decision and order shall be  
2 effective on the 24th day of April, 1989.

3  
4 Dated: March 23, 1989



5 THERESA CLAASSEN

6 Secretary/Treasurer

7 Board of Medical Quality Assurance

8 Department of Consumer Affairs

9 State of California  
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